

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

MAURICE DiLUZIO and LAURIE DiLUZIO,

Plaintiffs,

v.

05-CV-0568A(Sr)

**R.L.R. INVESTMENTS, LLC and
AMERICAN FREIGHTWAYS, INC.,**

Defendants.

DECISION AND ORDER

This matter was referred to the undersigned by the Hon. Richard J. Arcara, in accordance with 28 U.S.C. § 636(b), for all pretrial matters and to hear and report upon dispositive motions. Dkt. #7. Currently before me is a motion by Cambridge Integrated Services, Inc. ("Cambridge"), the workers compensation carrier for plaintiff Maurice DiLuzio's employer, FedEx East, to intervene in this action. Dkt. #42. Plaintiffs' counsel submitted a letter indicating that they do not oppose the motion.

Rule 24 of the Federal Rules of Civil Procedure provides as follows:

On timely motion, the court must permit anyone to intervene who:

* * *

- (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

Fed. R. Civ. P. 24(a)(2). In support of its motion, Cambridge submitted an affidavit

indicating that it has paid the sum of \$53,194.13 in workers' compensation benefits to plaintiff as of February 14, 2008. Dkt. #42-2. Pursuant to section 29 of New York's Workers' Compensation Law, Cambridge possesses a lien in this amount on the proceeds of any recovery resulting from this action. As a result, the Court concludes that Cambridge possesses a legitimate interest in the resolution of this matter and that Cambridge is better able to protect that interest than any of the other parties. See *Carnley v. Aid To Hospitals, Inc.*, 975 F. Supp. 252, 257 (W.D.N.Y. 1997); *Meras v. Slee*, 271 A.D.2d 417 (2d Dep't 2000). Accordingly, Cambridge's motion to intervene (Dkt. #42), is granted.

SO ORDERED.

DATED: Buffalo, New York
May 15, 2008

/s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge